$5,000 drawn by the defendant and as such they are entitled to recover from him as the drawer of the said cheque the amount due on it. There will be judgment for the plaintiffs in the sum of $5,000 together with interest on the said sum at the rate of 6 per cent per annum from the date of the writ until today. The defendant will pay the plaintiffs' costs of this action as taxed.

Judgment for the plaintiff.

Solicitors: *Sim Teow Gok & Co.; J. B. Jeyaretnam & Co.*

ANG TIONG SENG v. GOH HUAN CHIR

[C.A. (Wee Chong Jin C.J., Tan Ah Tah and Chua JJ.) September 28, 1970]

[Singapore — Civil Appeal No. 14 of 1970]

Damages — Personal injuries — Arm — Amputation of left arm.

Negligence — Professional negligence — Chinese "sinseh" — Standard care and skill to be expected.

The plaintiff (respondent herein) claimed damages against the defendants (one of whom was the appellant herein) on the ground that the injuries sustained by him were caused by the negligence of the defendants. The plaintiff was at the relevant time a wharf labourer. He was walking along a plank one end of which was placed on a boat anchored in the Singapore River and the other end on the edge of the quay at Boat Quay. The first defendant drove a motor-lorry which collided against the plank. This caused the plaintiff to fall into the river and he sustained an injury on his left arm. After the accident he was taken to the third defendant (the appellant), a Chinese physician (a "sinseh"), for treatment of the injured arm. The third defendant applied some medicine to the arm and bandaged it. Three days later it became gangrenous and was amputated at the General Hospital. The plaintiff and the first two defendants arrived at a settlement and judgment by consent was entered in favour of the plaintiff. The only issue remaining to be tried was whether the third defendant was liable for negligence. The learned trial judge came to the conclusion that the third defendant was negligent in his treatment of the plaintiff's left arm and accordingly awarded $28,070 as damages to the plaintiff (of this amount $25,000 was for general damages). The third defendant appealed.

Held: dismissing the appeal, (1) the learned trial judge was right in finding that the loss of the plaintiff's left arm was caused by the negligent treatment given by the third defendant;

(2) the sum of $25,000 awarded by way of general damages was excessive. In this case the sum of $17,500 would be a fair amount to be awarded for general damages. The total amount of damages would therefore be reduced from $28,070 to $20,570.

COURT OF APPEAL.

Harry L. Wee (*R. E. Redrup* with him) for the appellant.

C. H. Chua for the respondent.

Cur. Adv. Vult.

Tan Ah Tah J. (delivering the judgment of the court): In this case the plaintiff claimed damages against the defendants on the ground that the injuries sustained by him were caused by the negligence of the defendants.

The plaintiff was at the relevant time a wharf labourer. He was walking along a plank one end of which was placed on a boat anchored in the Singapore River and the other end on the edge of the quay at Boat Quay. As he was walking along the plank the first defendant who was driving motor-lorry No SGA 1778 collided against the plank. This caused the plaintiff to fall from the plank into the river and he sustained an injury on his left arm. After the accident the plaintiff was taken to the third defendant, a Chinese physician (referred to in Hokkien as "sinseh"), practising at Lorong 15 Geylang, for treatment of his injured arm. The third defendant applied some medicine to the arm and bandaged it. Three days later the arm became gangrenous and was amputated at the General Hospital. The plaintiff's claim against the first defendant was that he drove his lorry so negligently that it caused him to fall from the plank resulting in the injury to his arm. His claim against the second defendant was in his capacity as the owner of the lorry and the employer of the first defendant and his claim against the third defendant was for negligent treatment of his arm which resulted in the arm becoming gangrenous whereupon it had to be amputated. The plaintiff and the first and second defendants arrived at a settlement and judgment by consent was entered in favour of the plaintiff against the first and second defendants for the sum of $1,000 and agreed costs in the sum of $350. The three defendants also agreed that as between themselves there was to be no order as to costs. The only issue remaining to be tried as between the plaintiff and the third defendant was the question whether the third defendant was liable for negligence. The learned trial judge came to the conclusion that the third defendant was negligent in his treatment of the plaintiff's left arm and accordingly awarded the sum of $28,070 by way of damages to the plaintiff as against the third defendant. It is against this decision that this appeal is now brought by the third defendant.

At the trial the plaintiff and the third defendant gave different versions of what happened during the plaintiff's visits to the third defendant. On these matters, the facts found by the learned trial judge were as follows. After the accident the plaintiff was taken by two of his fellow workers to the third defendant for treatment. The third defendant examined him and told him that he had sustained two or three fractures in his left arm and that the third defendant could cure him completely for a fee of $200. Arrangements were made for the payment of this fee and the plaintiff accepted the third defendant's offer to cure him completely. The third defendant thereupon tied three bamboo sticks to his arm, applied some medicine on the arm and finally bandaged it very tightly. The plaintiff was then sent home and told to come back again the next day. On the next day he felt severe pain in his arm and went with his wife to see the third defendant. He complained to the third defendant of severe pain. The third defendant told him that the pain would be even more severe on the third day. The third defendant then gave him two bottles of medicine for which he paid the sum of $6. He was told to see the third defendant on the next day. On the third day he

went again with his wife to see the third defendant. Without removing the bandage, the third defendant applied some medicine on his arm over the bandage and he was told to come back again the next day. On the fourth day the plaintiff discovered blood oozing out from underneath the bandage. He also saw what he described as "bubbles" on his left hand. He went with his wife to see the third defendant. He showed the third defendant the blood and the "bubbles" whereupon the third defendant told him to go to the General Hospital at once. The third defendant called a taxi and the plaintiff and his wife proceeded immediately to the General Hospital. At the General Hospital the plaintiff was examined and warded and on the same day his left arm was amputated. These then were the findings of fact made by the learned trial judge and we have no reason to disagree with him.

Counsel for the third defendant submitted before us that the third defendant was not a qualified medical practitioner and that therefore the standard of care and skill to be expected from him was not as high as the standard to be expected from a qualified medical practitioner. In the circumstances of this case we do not find it necessary to deal with the question as to the standard of care and skill to be expected from a Chinese physician as compared with a qualified medical practitioner. Even if it is assumed in favour of the third defendant that the standard of care and skill to be expected from him was not as high as that to be expected from a qualified medical practitioner we are of the opinion that he was guilty of a high degree of negligence in his treatment of the plaintiff's left arm. We refer particularly to the very tight bandage applied to the plaintiff's arm and to the failure of the third defendant to remove the bandage in order to inspect the arm when the plaintiff complained of severe pain. In fact the bandage was never removed by the third defendant after he had applied it to the plaintiff's arm. On the fourth visit made by the plaintiff to the third defendant when the plaintiff discovered blood oozing out from underneath the bandage and saw "bubbles" on his left hand it was obviously too late for the third defendant to do anything because he sent the plaintiff to the General Hospital immediately.

As to the gangrenous state of the plaintiff's arm, Mr. William Fung, the senior orthopaedic surgeon at the General Hospital, explained that gangrene is caused by the loss of blood supply and that in this case there were the following three possibilities: —

1. The injury to the left arm may have severed the blood vessels and thus stopped the supply of blood resulting in gangrene.
2. Some infection may have blocked the blood supply.
3. A tight bandage can also cause gangrene.

The learned trial judge dealt with the question of the cause of the gangrene in the following words: —

"The third defendant has described the plaintiff's injury as a twisted arm and he alleges that there were lacerations on the arm. The plaintiff denies the third defendant's allegation of his arm being lacerated. The plaintiff's evidence is that there were no lacerations, abrasions or cuts on his left arm and there was no bleeding. I accept the plaintiff's evidence on this issue. In the circumstances the possibility of any blood vessels being severed or occluded can in my opinion be completely ruled out. The possibility of infection setting in and leading to gangrene can also be excluded because there was no breaking of the skin. On the other hand the plaintiff has testified that the bandage on his arm was tight and this in my opinion resulted in the blood supply to the arm being cut off or impeded. The evidence therefore clearly shows that the gangrene which caused the arm being amputated was a result of the third defendant's incompetent treatment."

We are in complete agreement with the reasoning of the learned trial judge and affirm his decision that the loss of the plaintiff's left arm was caused by the negligent treatment given to it by the third defendant.

On the question of damages, we agree with the learned trial judge's assessment of $2,000 for loss of earnings. The plaintiff was a daily paid casual labourer and was 38 years of age at the time of the accident. In our opinion, the sum of $25,000 awarded by way of general damages is excessive. We are of the view that the sum of $17,500 would be a fair amount to be awarded in this case for general damages. The total amount of damages will therefore be reduced from $28,070 to $20,570.

The appeal by the third defendant against liability is dismissed but the award of damages is varied accordingly.

Appeal against liability dismissed.
Award of damages varied.

Solicitors: *R. E. Redrup; C. H. Chua & Co.*

SOFJAN & ANOR. v. PUBLIC PROSECUTOR

[C.C.A. (Wee Chong Jin C.J., Tan Ah Tah and Winslow JJ.) October 10, 1970]

[Singapore — Case Stated No. 1 of 1970]

Criminal Law and Procedure — Appeal — Order made by district judge under section 11(2) of the Control of Imports and Exports Ordinance (Cap. 214) — Whether criminal case or matter — Whether appeal lies — Criminal Procedure Code (Cap. 132) ss. 284 and 290(1).

Import and Export — Gold bars — Forfeiture — Control of Imports and Exports Ordinance (Cap. 214), s. 11(2).

This was a case stated under section 60(1) of the Supreme Court of Judicature Act, 1969. Certain gold bars had been seized at the Singapore Airport in April and May 1969 and when the seizures were reported to the district court under the provisions of section 11(2) of the Control of Imports and Exports Ordinance, the district court, being satisfied that an offence under the provisions of the Ordinance had been committed by some person or persons, held that no sufficient cause had been shown by the appellants why an order for forfeiture of the gold bars should not be made and the gold bars were accordingly forfeited. The appellants who had claimed to be the owners or persons having an interest in the gold bars, appealed against the order of forfeiture to the High Court. Chua J. in the High Court decided that the matter was not a criminal case or matter and that accordingly no appeal lay to the High Court. At the request of counsel for the appellants he stated a case for the opinion of the Court of Criminal Appeal.

Held: the learned judge was right in holding that this was not a criminal case or matter and therefore no appeal lay against the order of forfeiture.